

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

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IN RE PHARMACEUTICAL INDUSTRY : MDL 1456
AVERAGE WHOLESALE PRICE :
LITIGATION, :
:
----- : Master File No. 01-CV-12257-PBS
THIS DOCUMENT RELATES TO: :
ALL ACTIONS :
:
: Judge Patti B. Saris
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**FIRST DATABANK, INC.'S MOTION TO FILE UNDER SEAL THE DEPOSITION
TRANSCRIPT OF PATRICIA KAY MORGAN**

Pursuant to Local Rule 7.2 and Paragraphs 15 and 29 of the Protective Order entered by the Court on December 13, 2002, non-parties First DataBank, Inc. and Patricia Kay Morgan (collectively "FDB"), respectfully request leave to file under seal the deposition transcript of Patricia Kay Morgan, referenced in FDB's Memorandum in Opposition to Defendants' Motion to Compel and in Support of Counter-Motion to Limit All Subpoenas and attached to the Declaration of Robert J. Hawley as Exhibit H. Should the Court allow the motion, unredacted versions of these materials are submitted herewith.

In support of its motion, FDB states:

- (1) Under the terms of the Protective Order, any court filings designated "Highly Confidential" shall be filed under seal. *See* Protective Order ¶ 15.
- (2) The transcript of testimony Ms. Morgan gave on November 13, 2002, in *Texas ex. rel. Ven-A-Care of the Florida Keys, Inc. v. Dey, Inc.*, No. GV002327 (Travis Co., Texas) has been designated "Highly Confidential."

(3) FDB has separately filed a redacted public version of its Memorandum of Law, which cites the testimony of Ms. Morgan, and a redacted public version of the Declaration of Robert J. Hawley, which attaches the Texas deposition transcript as Exhibit H.

(4) Full, or unredacted versions of the Memorandum of Law and the Hawley Declaration are submitted together with this motion.

WHEREFORE, FDB respectfully requests leave to file the aforementioned documents under seal.

Dated: August 20, 2004

Respectfully submitted,

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